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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/650,834	05/20/96	WREN	S WR-6

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EXAMINER

NIMMO, J

ART UNIT	PAPER NUMBER
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2766

DATE MAILED:

*W*  
03/16/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
08/650,834

Applicant(s)

Stephen C. Wren

Examiner

James Nimmo

Group Art Unit

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☒ Responsive to communication(s) filed on Oct 13, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 10-19 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 10-19 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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#11

### **DETAILED ACTION**

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Suggested title: System for Marketing, Sales, and Negotiation of Goods and Services Utilizing Computerized Central and Remote Facility with Live Representative.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: Information relative to the status of each application in the Cross Reference to Related Applications section should be included. The label "The Invention on p. 9 should be removed since the entire section on pages 9 to 29 are a detailed description of the invention. The last line of page 26 is repeated on the first line of page 27. Appropriate correction is required.

#### ***Drawings***

3. The drawing f or Fig. 1 is objected to because numbers are missing from the component corresponding to the representative of the drawing for Fig. 1. Correction is required.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin in view of Walker and Dziewit.

A. In regards to claim 10, Dworkin discloses a system for handling sales transactions between a remote facility and a central facility, see Fig. 1, and col. 3 line 40 - col. 4 line 29. In this system, Dworkin includes means connecting, (see Fig. 1, element 8); means for storing data relating to goods and services, and transmitting this data to the remote customer (see Figs. 1 and 3-4, and their accompanying discussion). As per input means, it would have been obvious to include input means in Dworkin such as keyboards or touch-screens at the time of applicant's invention, since it is necessary for the user of the system to input data.

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Dworkin does not provides means enabling a customer to electronically negotiate a contract. As part of Dworkin's invention he doesn't incorporate means to print contract specific paperwork at the remote facility, but prints out transaction paperwork at the central facility, see col. 4 lines 13-24. Dworkin does not disclose means at the central facility for transmitting video, and audio related to good services to the remote location. However the examiner asserts that it is well known for computers have the ability to transmit video and audio to a remote computer. Motivation exist to include means to transmit video in Dworkin since customers would like to see an item before purchasing it. Incorporating audio would have allowed more information to be presented and absorbed by the customer (e.g. voice added to television commercials) than would text. Dworkin does not disclose a live representative, but provides a method of contacting the management of the system via an electronic mailbox, see col. 10 lines 9-17. Therefore, the same interaction with a live representative is anticipated.

However, Walker discloses selective interaction with a live representative via audio, see Fig. 4A and col. 3 line 15 - line 23. It would have been obvious to incorporate live interaction in Dworkin to allow customers to obtain more immediate response. It is the assertion of the examiner that Walker's system has means enabling the central facility to transmit live video, and audio via a video phone and speaker phone, see col. 3 line 63 - col. 4 line 22, col. line 1 - line 28, and Fig. 4A. Also, the examiner asserts that customer could interact with the live representative on the video phone and speaker phone while simultaneously viewing a presentation of information

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on goods or services on the customer's terminal in Dworkin. Therefore, a person of ordinary skill in the art would have been motivated to include use of a speaker phone in conjunction with a video phone in Dworkin to provide contact with a live representative. It is well known that customers negotiate contracts involving products and services. It would be convenient for customers to convene these negotiations with a live representative from remote location rather than by some other means such as electronic mailbox as provided by Dworkin in order to achieve a quicker response. Therefore, it would have been obvious to incorporate negotiation with a live representative in Dworkin to negotiate the purchase of products and services. Finally, Dziewit teaches means enabling a customer to electronically negotiate a contract, see col. 1 line 15 - col. 2 line 68. Dziewit also teaches that the need for means enabling a customer to electronically negotiate a contract is to reduce the dependency on paper, also see col. 1 line 15 - col. 2 line 68. The customers who would use Dworkin's system, would desire to negotiate the price and terms of contracts of the products and services offered by the vendors using Dworkin's system in order to obtain the best deal. Therefore, a person of ordinary skill in the art at the time of the invention would have been motivated to include for means enabling a customer to electronically negotiate taught by Dziewit in Dworkin. Further Dworkin discloses means to transmit a contract to a remote facility, see col. 2 lines 34 - 41. It would have been obvious to print out transaction information in Dworkin to provide the customer with a permanent record of the transaction. Therefore, it would have been obvious to modify Dworkin to print out transaction information in Dworkin to provide the customer with a permanent record of the transaction.

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Note: The term "face to face" in the preamble of claim 10 was given no patentable weight since it does appear anywhere else in the claim.

B. In regards to claim 11, Dworkin provides a means for linking a remote computerized facility with a plurality of central computerized facilities enabling a customer to connect with a second different central computerized facility after been connected with the first central computerized facility, see Fig. 1 (i.e. vendors).

C. In regards to claims 12, and 13, financial and real estate were well known at the time of the invention service for sale. One of ordinary skill in the art would have been motivated to sell any product or service including financial and real estate services. Therefore, it would have been obvious to apply Dworkin's system to financial and real estate services at the time of the invention.

D. As regards to claim 14, Dworkin provides means to provide the customer with more detailed information, refer to the abstract and claim 3. It is the assertion of this examiner that more detailed information is synonymous with higher information level.

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7. Claims 15 - 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin, and Walker and Dziewit as applied to claims 10 - 14 above, and further in view of Strubbe et al (patent 5,469,206).

A. As for claims 15 and 16, Strubbe et al. disclose a system and method for automatically correlating user profiles with electronic shopping information. As for claim 15, Strubbe et al. disclose means for recording customer responses during use of the system to build a customer profile, see abstract, col. 4 lines 8 - 56, and claim 1. As for claim 16, Strubbe et al. disclose means for using the customer's profile to determine information to be presented to him, see abstract, col. 4 lines 8 - 56, and claims 1 -3. Each customer of Dworkin's system would have unique characteristics, therefore, motivation exist to target particular information to a particular profile. Therefore, a person of ordinary skill in the art would be motivated to modify Dworkin to include software for recording customer responses during use of the system to build a customer profile, and for using the customer's profile to determine information to be presented to him as disclose by Strubbe et al..

B. As for claim 17, customers would want to use the apparatus in Dworkin more than once since it is convenient tp use such a system to be able to shop from one location. Therefore, customers would use Dworkin's system periodically. It would have been obvious at the time of the invention to update the customers profile who periodically use Dworkin's system each time the customer used the system to track the changing likes and dislikes of the customer.



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C. As for claim 19, it is well for recording a stopping point in software applications to allow a person to get back to the stored work. Therefore, a person would be motivated to modify Dworkin's system to have the software use in the system to record a stopping point in the last on-line presentation in case contact is resumed.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin, Walker, Dziewit, and Strubbe et al (patent 5,469,206) as applied to claims 10 - 17 above, and further in view of Filepp et al.

As for claim 18, Filepp et al. disclose including means for providing commercials during a customer request for additional information, see ~~col. 9, line 12~~ <sup>col. 9, line 12</sup> customer using Dworkin's system would want to have a continuous flow of information, therefore, there exist motivation to include means for providing commercials during a customer request for additional information to keep uninterrupted flow of information. Therefore, a person of ordinary skill in the art would be motivated to modify Dworkin to include software for providing commercials during a customer request for additional information to keep uninterrupted flow of information.

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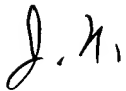
*Conclusion*

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Nimmo whose telephone number is (703) 305-2391. The examiner can normally be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gail Hayes, can be reached on (703) 306-5417. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-0040.



James Nimmo

March 1, 1999



GAIL O. HAYES  
SUPERVISORY PATENT EXAMINER  
GROUP 2700